

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.4502 OF 2005**

Prashant Mohan Patil ...Applicant
Vs.
The State of Maharashtra ...Respondent

Shri. K.S.Patil for the Applicant.
Mr. K.V. Saste, A.P.P. for the Respondent.

**CORAM : A. S. OKA, J.
DATE : AUGUST 25, 2005.**

P.C.:

1. Heard the advocate appearing for the Applicant and the learned A.P.P. for the State. This is an Application for Anticipatory Bail. Offence registered against the Applicant and co-accused is under sections 366(A), 376, 328, 114 of the Indian Penal Code and Sections 3 and 5 of the Child Marriage Restraint Act, 1929. According to the prosecution, the allegation of commission of offence under section 376 of the Indian Penal Code is against the brother of the Applicant. There is no dispute that the brother of the Applicant who is the main accused in the case has been enlarged on bail. According to the prosecution, the Applicant aided and abetted his brother in commission of the said offence. It is alleged that the Applicant had made arrangements for providing fund of Rs.3,000/- and accomodation to his brother with the help of co-accused Chandar. It is stated that said co-accused Chandar is absconding. Moreover, it is stated that the Applicant is in possession of photographs of the main accused taken with the prosecutrix. According to

the prosecution that the recovery of photographs is necessary as the Applicant may try to defame the prosecutrix who has married subsequently.

2. In response to the affidavit filed by the Investigating Officer, a detailed affidavit is filed on 11th August, 2005 by the Applicant. The prosecution claims that the Applicant is absconding. However, in the said affidavit the Applicant has set out that in January 2005 he has undergone a training for selection in Police Department at Satara for a period of about one month. It is stated that during the course of investigation, he has attended the police station on two occasions. By filing a further affidavit, the said facts are denied by the Investigating Officer.

3. I have considered the submissions made by the advocates appearing for the parties. In a detailed statement of the prosecutrix recorded by the police, no role is ascribed to the Applicant in the alleged kidnapping and alleged marriage between prosecutrix and the main accused. Assuming that the Applicant is in possession of the certain photographs, that is no ground to arrest the Applicant. All that is stated in the affidavit against the Applicant is that he provided a sum of Rs.3,000/- to his brother and made arrangements for residence of his brother and

prosecutrix. The principle accused has been enlarged on bail. The Applicant is stated to be a student. Much can be said about the case made out by the prosecutrix in her statement. Suffice here to say here that the Applicant will be subjected to unnecessary harassment if taken in custody.

4. Hence, I pass the following order:

: O R D E R :

i) In the event of the arrest of the Applicant in connection with **C.R.No.435 of 2004 of Panvel Town Police Station**, the Applicant shall be enlarged on bail subject to furnishing P.R.Bond in the sum of **Rs.15,000/- with one or two local sureties** in the like amount.

ii) The Bail is granted subject to condition that the Applicant will attend the concerned Police Station as and when called upon to do so till the filing of chargesheet against him.

iii) The Bail is granted subject to condition that the Applicant will co-operate with the investigation.

iv) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make

any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the Police Officer/Investigating Agency. The Applicant shall not tamper with the prosecution evidence.

v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vi) This order will enure to the benefit of the Applicant only till chargesheet is filed. Thereafter, he will be free to apply to the appropriate court for appropriate relief.

vii) Application is disposed of in above terms.

viii) The parties to act upon an authenticated copy of this order.

JUDGE